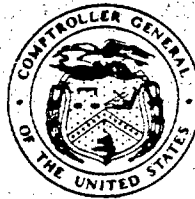


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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-193551

DATE: June 6, 1980

MATTER OF: Louis L. Jackson, Sr. - Detail to Higher-Grade Position - Reconsideration

DIGEST: Although Louis L. Jackson, Sr., B-193551, August 13, 1979, affirmed disallowance of entire claim of wage grade employee for temporary promotion and back pay for detail to higher-grade position from January 1974 to August 1975, claim for period from December 8, 1974, to July 3, 1975, is allowed. New evidence indicates employee had 1 continuous detail from December 8, 1974, through February 28, 1976, with break of only 28 days in July 1975, and no exclusion for first 120 days of detail is necessary since exclusion of 120 days was made in connection with prior award of backpay for period from August 1, 1975, through February 28, 1976.

This decision involves a reconsideration of Matter of Louis L. Jackson, Sr., B-193551, August 13, 1979, that denied Mr. Jackson's claim for a retroactive temporary promotion to grade WG-12 and backpay for the period of January 1974 to August 1975. On the basis of new evidence Mr. Jackson's claim is allowed for the period of December 8, 1974, to July 3, 1975.

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The substance of the new evidence presented is as follows. Mr. Jackson was employed at Kelly Air Force Base, Texas, as a WG-10 offset press operator. Mr. Jackson claimed that for a continuous 10-month period during the period of January 1974 and August 1975, he performed the duties of a WG-12 offset press operator. The claim was denied because it was the Air Force's position that no period of detail during the 18 months in question exceeded 120 days. However, in response to our request the Air Force has provided this Office with new evidence in the form of a revised Standard Form 172 ("Amendment to Personal Qualifications Statement") dated December 5, 1979, which indicates that for the period of December 8, 1974 to July 3, 1975, Mr. Jackson performed

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the duties normally assigned to the WG-12 offset press operator on a continuous basis. This corresponds with the period that the WG-12 position was vacant. This revised SF 172 was certified by Mr. Jackson's supervisor. The Air Force is now of the opinion that this document could establish eligibility for a retroactive temporary promotion for the period which it had previously questioned.

On April 12, 1978, Mr. Jackson was awarded a retroactive temporary promotion with backpay for the period from November 29, 1975 through February 28, 1976, based on a detail commencing August 1, 1975. The initial 120 days were excluded in accord with decisions of our Office holding that a temporary promotion with back pay is required as of the 121st day of an improper detail. Loretta T. Smith, B-193723, September 21, 1979. The agency award in connection with this detail for the period of August 1, 1975 through February 28, 1976, was sustained by our Claims Division by settlement dated October 6, 1978. Therefore, it now appears that Mr. Jackson was continuously detailed to the WG-12 position for the period of December 8, 1974 through February 28, 1976, with the exception of the 28 day period of July 4 to August 1, 1975. The record indicates that the position to which Mr. Jackson was detailed was vacant from December 8, 1974 through July 5, 1975, before being filled by the promotion of another employee.

The Civil Service Commission (now Office of Personnel Management), Bureau of Recruiting and Examining, Office of Staffing Services, responded to the Air Force's request for guidance in processing this overlong detail which contains a less than 30-day break as follows:

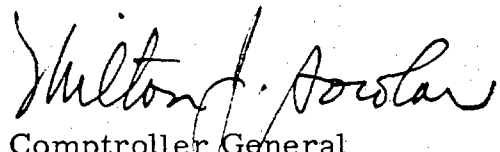
"You asked whether details which improperly exceed 120 days and which are separated by less than 30 days should be retroactively processed as separate temporary promotions. Because an employee is only entitled to additional pay for the time when he was actually detailed to a higher-grade position, breaks between two details may not be included as temporary promotions. Thus, for example, if an employee had a 150-day detail to a higher-grade position, a break of 20 days, and

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another 120-day detail to the same higher-grade position, you would process one temporary promotion to cover the final 30 days of the first detail and a second temporary promotion to cover the entire second detail."

The facts of record strongly suggest that the character of the detail was that of 1 continuous detail to the same position which contained a 28-day break rather than two unrelated distinct and separate details. Under the circumstances, the periods of the employee's detail may be considered in the aggregate. In this connection we point out that, William G. Atherton, B-173783.200, July 31, 1978, is not applicable since that case involved, in general, details of less than 120 days which could not be combined to produce one period in excess of 120 days and thereby entitle the employee to a retroactive promotion with backpay. Also, James J. Ford, 57 Comp. Gen. 605 (1978) is not applicable since it involved the question of whether 2 details to 2 distinctly different positions could be tacked together for the purposes of avoiding a second 120-day period of ineligibility. Therefore, only one 120-day period need be excluded for the purposes of a retroactive promotion and backpay, and Mr. Jackson may be paid backpay for the entire period of December 8, 1974 to July 3, 1975. This reflects the fact that Mr. Jackson was not paid backpay for the 120-day period of August 1, 1975 through November 28, 1975.

Accordingly, the claim may be paid consistent with the above discussion if otherwise proper.



For the Comptroller General
of the United States